IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 500 OF 2003

The State of Maharashtra ..Appellant

v/s

Cooru Kalu Pujari & Ors. ..Respondents

Mr. D.P. Adsule, APP for the State.

Shri S.S. Hardikar for the Respondents.

CORAM : J.H. BHATIA, J.

DATE : 12TH JUNE 2007.

P.C.

1. Heard Shri Adsule, learned APP and Shri Hardikar, learned counsel for the Respondents. Prosecution seeks leave to prefer Appeal against the acquittal of the accused for the offence punishable under section 7(i) r/w Notification No. PFA/Gutkha/51/2000/7(3) dated 17.2.2000 punishable under section 16 of the Prevention of Food Adulteration Act, 1954.

2. Prosecution case is that accused were running a paan shop within the limit of 100 metres from the office of the Deputy Director,

Bhoojal Sarvelsjam & Vikas Yantrana, Pune, which is a Government office, in contravention of section 7(4) of the Food Adulteration Act read with Notification No. PFA/Gutka/51/2000/7(5) dated 17-2-2000 punishable under section 16 of the Prevention of Food Adulteration Act. That notification prohibits the sale of tobacco or any tobacco product within the limits of 100 metres from any Government office. After the trial the learned Chief Judicial Magistrate, Pune, acquitted the accused persons observing that the complainant, who is a Food Inspector, had not taken the exact measurement to show the distance of the said pan shop from the Government office. Secondly the public analyst, who had analysed the sample of the gutka was not examined. P.W. 2, who was examined as a public analyst, admitted that he himself had not analysed and some other officer had analysed the sample. In view of this evidence I find that the learned Magistrate was justified in passing the order of acquittal.

3. For the aforesaid reasons the leave to prefer appeal against the acquittal is rejected. The Appeal stands dismissed.

(J.H. BHATIA, J.)